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HOUSE BILL 509

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Gail C. Beam

AN ACT

**RELATING TO HEALTH CARE; CREATING THE CRIME OF OBSTRUCTING
ACCESS TO A HEALTH FACILITY; ENACTING THE HEALTH CARE
OBSTRUCTION ACT; PROVIDING CRIMINAL PENALTIES; PROVIDING CIVIL
REMEDIES.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. SHORT TITLE.--This act may be cited as the
"Health Care Obstruction Act".**

**Section 2. DEFINITIONS.--As used in the Health Care
Obstruction Act:**

**A. "health facility" means a building, structure or
place at which licensed, certified or otherwise legally
authorized persons provide reproductive health care services;**

**B. "obstruct" means to physically hinder, restrain,
impede, hit, shove, grab, kick or otherwise subject a person to**

underscored material = new
[bracketed material] = delete

1 unwanted physical contact or threat of unwanted physical
2 contact or an attempt to perform any of those acts; and

3 C. "reproductive health care service" means
4 counseling or diagnosis related to the human reproductive
5 system or examination or treatment of the human reproductive
6 system.

7 Section 3. OFFENSES. --

8 A. Obstructing access to a health facility consists
9 of a person, with the intent to prevent another from obtaining
10 or rendering, or assisting in obtaining or rendering, a
11 reproductive health care service, who:

12 (1) physically obstructs another from entering
13 or exiting from the entrance or exit of a health facility or
14 the premises on or in which a health facility is located;

15 (2) follows or harasses, in or about a public
16 place, another who has entered or exited a health facility; or

17 (3) engages in a course of conduct or
18 repeatedly commits acts that place another person in reasonable
19 fear of physical harm.

20 B. A person who commits obstructing access to a
21 health facility is guilty of a misdemeanor and shall be
22 sentenced pursuant to Section 31-19-1 NMSA 1978.

23 Section 4. CIVIL CAUSE OF ACTION. --

24 A. A person whose ability to obtain or render, or
25 assist in obtaining or rendering, reproductive health care

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1 services, or who has been subject to any of the actions in
2 Subsection A of Section 3 of the Health Care Obstruction Act,
3 or an owner or operator of a health facility or owner of
4 premises on or in which a health facility is located, where the
5 offense of obstructing access to a health facility has
6 occurred, may bring a civil cause of action in state district
7 court in the district in which the offense occurred, for the
8 following remedies:

9 (1) injunctive relief; and

10 (2) attorney fees and court costs.

11 B. If it is found, in an action brought pursuant to
12 the provisions of the Health Care Obstruction Act, that two or
13 more of the named defendants acted in concert pursuant to a
14 common plan or design to violate a provision of Section 3 of
15 that act, the defendants shall be held jointly and severally
16 liable for any fine or penalties imposed or damages awarded.

17 Section 5. CONSTRUCTION--OTHER PENALTIES OR REMEDIES--
18 FIRST AMENDMENT EXPRESSION. --

19 A. No provision of the Health Care Obstruction Act
20 shall be construed or interpreted to limit the right of a
21 person or entity to seek other available criminal penalties or
22 civil remedies. The penalties and remedies included in that
23 act are cumulative and not exclusive.

24 B. No provision of the Health Care Obstruction Act
25 shall be construed or interpreted to prohibit expression

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1 protected by the first amendment of the constitution of the
2 United States or Article 2, Section 17 of the constitution of
3 New Mexico.

4 Section 2. SEVERABILITY.--If any part or application of
5 the Health Care Obstruction Act is held invalid, the reminder
6 or its application to other situations or persons shall not be
7 affected.

8 Section 3. EFFECTIVE DATE.--The effective date of the
9 provisions of this act is July 1, 2003.